



UNIT STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Offic

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

cl

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/925,703	09/09/97	ALLEN	D MICL: 024 (97-

COE F. MILES  
TROP PRUNER HU & MILES, PC  
8554 KATY FREEWAY  
SUITE 100  
HOUSTON TX 77024

LMC1/0905

EXAMINER	
OPIE, G	
ART UNIT	PAPER NUMBER
2755	15
DATE MAILED: 09/05/00	

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	08/925,703 Examiner	Duane Le Allen Art Unit	
	George L. Opie	2755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

#### Status

- 1)  Responsive to communication(s) filed on 6/19/00.
- 2a)  This action is FINAL.                    2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 34-51 is/are pending in the application.
  - 4a) Of the above claim(s)  is/are withdrawn from consideration.
- 5)  Claim(s)  is/are allowed.
- 6)  Claim(s) 34-51 is/are rejected.
- 7)  Claim(s)  is/are objected to.
- 8)  Claim(s)  are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.
- 12)  The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
    - a)  All b)  Some \* c)  None of the CERTIFIED copies of the priority documents have been:
      1.  received.
      2.  received in Application No. (Series Code / Serial Number) \_\_\_\_\_.
      3.  received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

#### Attachment(s)

- |   |  |
|---|--|
| 14) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 17) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____   |
| 15) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 18) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 16) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 19) <input type="checkbox"/> Other: _____                                    |

Art Unit: 2755

## DETAILED ACTION

### 1. Request for copy of Applicant's response on floppy disk:

Please help expedite the prosecution of this application by including, along with your amendment response in paper form, an electronic file copy in WordPerfect, Microsoft Word, or in ASCII text format on a 3 ½ inch IBM format floppy disk.

Please include all pending claims along with your responsive remarks. Only the paper copy will be entered -- your floppy disk file will be considered a duplicate copy. Signatures are not required on the disk copy. The floppy disk copy is not mandatory; however, it will help expedite the processing of your application.

Your cooperation is appreciated.

### 2. Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 34-36, 39-42, 44, 47-49, & 51 are rejected under 35 USC § 103(a) as being unpatentable over the Admitted Prior Art (APA) in view of Leyda (U.S. Patent 5,794,032).

As to claim 34, the APA (background p4 l8-17) teaches a method comprising: providing an operating system package (OS) that includes a first configuration file (includes a configuration file) the first configuration file including information used by the operating system package to install first drivers (drivers) for a first set of devices (devices ... associated with the computer) on a computer. The APA does not explicitly disclose the additional limitations detailed below.

Leyda (p4 l8-33,45-49) teaches providing a second configuration file (data file ... CONFIG.SYS) external to the operating system package, the second configuration file including information (lines of code) to direct the installation of a second driver (software drivers) for a second device (CD-ROM drive 30) installing the second driver (load the software drivers) on the computer based on the information in the second configuration file (CONFIG.SYS data file instructs ... the interfaces associated with the peripherals) and

installing the operating system package on the computer based on the information in the second configuration file (dos=high,umb). Also, it is noted that Leyda (p6 l6-30 et seq.) teaches a specialized CONFIG.SYS file 106 which

Art Unit: 2755

corresponds to the second configuration file and its concomitant features. It would have been obvious to combine Leyda's teachings with the APA because the automated configuration system facilitates the proper loading or reloading of computer essentials.

As to claim 35, the APA (background p3 l14 – p4 l2) teaches executing a setup program (software) of the operating system package (OS) to install the second driver (installs whatever drivers the device needs).

As to claim 36, the APA teaches a user to "plug in" a new device, (background p3 l14 – p4 l2) which corresponds to the second device is not included in the first set of devices.

As to claim 39, Leyda teaches the second device is identified dynamically (ability to automatically identify and configure devices, p11 l8-18). It would have been obvious to combine the dynamic identification process as taught by Leyda with the APA as modified because this identification scheme simplifies installations and upgrades.

As to claim 40, Leyda teaches the dynamic identification (automatically identifies, p5 l17-40) is at least one of automated and user-driven (The CPU 12 sequentially executes the lines of code in the CONFIG.SYS file, p4 l16-20) which is a mechanism for user-driven computerized control for system setup. It would have been obvious to combine Leyda with the APA as modified because the automated and user-driven teaching provides enhanced installation capabilities, i.e. a powerful system management utility that is easy for the user to direct.

As to claim 41, "Official Notice" is taken that an ISA, PCI, SCSI, and an IDE device are component standards which are well known in the art. (MPEP 2144.03).

As to claim 42, "Official Notice" is taken that a display device, a sound device, a modem, and a controller are components that need respective drivers for the system to function properly is well known in the art (MPEP 2144.03).

As to claims 44, & 47-49, note the rejections of claims 34, 39, 41 & 42 respectively. Claims 44, & 47-49 are the same as claims 34, 39, 41 & 42, except claims 44, & 47-49 are computer program product claims and claims 34, 39, 41 & 42 are method claims.

As to claim 51, the APA teaches that the device drivers are typically installed during the OS installation, background p4 ln 15-17. Accordingly, it would have

Art Unit: 2755

been obvious to install the driver for the second device and the operating system package contemporaneously.

4. Claims 37-38, 43, 45-46, & 50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the APA and Leyda as applied to claim 34 above, and further in view of Harding (U.S. Patent 5,794,052).

As to claim 37, Harding teaches installing applications after the second driver and the operating system are installed (the operating system and graphical user interface are installed onto the hard disk drive first, and then the device drivers, followed by the applications, p5 l11-20). It would have been obvious to combine this teaching by Harding with the APA as modified by Leyda because the applications are dependent on the system's components/configuration, and the setup routine taught by Harding enables efficient installation of a user's software package.

As to claim 38, Harding teaches determining one installation procedure from among a plurality of options (running the appropriate batch file for the selected language, which explodes the user selected language versions of the DOS and Windows modules, p7 l1-15). The language selection procedure as taught by Harding, determines a specific installation for deriving a desired DOS version; this corresponds to applicant's determining one installation from among a plurality of options. In the interest of flexibility and efficiency, it would be important to incorporate a mechanism for choosing an installation procedure from a variety of possibilities. Consequently, it would have been obvious to combine Harding with the APA as modified by Leyda, and thereby implement a facility for determining one procedure for installation from a number of alternatives.

As to claim 43, Harding teaches a system of patching OS files in order to have the OS correctly conform to a selective configuration, p4 l5-16; this system of modifying OS files as taught by Harding corresponds to Applicant's patching errors in the first configuration file with information in the second configuration file. It would have been an obvious modification to use the external configuration file for implementing the corrective patching to fix the OS config file. An OS support artisan would have employed Harding's file patching concept in the APA as modified by Leyda because the correcting of errors via patches from one file to a second file facilitates solution implementation/installation, and thereby enabling a user to easily maintain the OS package, devices and machine in a properly performing status.

Art Unit: 2755

As to claims 45-46, & 50, note the rejections of claims 37-38, & 43 respectively. Claims 45-6 & 50 are the same as claims 37-8 & 43, except claims 45-6 & 50 are computer program product claims and claims 37-8 & 43 are method claims.

5. The prior art of record and not relied upon is considered pertinent to the applicant's disclosure. Each reference disclosed below is relevant to one or more of the Applicant's claimed invention.

U.S. Patent No. 5,713,009 to Derosa et al. which teaches a configuration file for setting-up the system devices and OS;

U.S. Patent No. 5,640,562 to Wold et al. which teaches a facility for installing device drivers and an OS kernel;

U.S. Patent No. 5,613,125 to Nguyen et al. which teaches a system for controlling devices in conjunction with the OS by means of a special configuration file.

#### **6. Response to Applicant's Arguments:**

Applicant argues that the APA as combined with Leyda does not teach "installing an operating system package based on the information in a configuration file."

Contrary to Applicant's contention, the cited teachings do meet the limitation of OS installation from a second external configuration file as broadly claimed.

Leyda teaches a Config.Sys file which installs drivers and directs OS loading (dos=high,umb). Clearly, this teaching meets the recited installing the OS based on a configuration file. In addition to the config.sys file, Leyda teaches a second configuration file, specialized CONFIG.SYS file 106. This config.sys file 106 performs driver installation, and it would have been obvious that this file could likewise function to load the OS in the same way as the ordinary config.sys file by simply including the dos=high,umb information/directive. In light of the cited art from the APA and Leyda, the examiner does not believe that the aforementioned limitation as recited in the pending claims is a non obvious improvement over the prior art.

Applicant's arguments have been fully considered but they are not deemed to be persuasive. For the reasons detailed above, the rejections in the previous Office Action are maintained.

#### **7. THIS ACTION IS MADE FINAL.**

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE

Art Unit: 2755

THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Opie at (703) 308-9120 or via e-mail at [George.Opie@uspto.gov](mailto:George.Opie@uspto.gov). Internet e-mail should not be used where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. Sensitive data includes confidential information related to patent applications.



ALVIN E. OBERLEY  
SUPERVISORY PATENT EXAMINER  
GROUP 2700